BILL NO. S-90-06-21

SPECIAL ORDINANCE NO. S-150-90

AN ORDINANCE approving the awarding of Reference #OFLP207 by the City of Fort Wayne, Indiana, by and through its Department of Purchasing and **WESTINGHOUSE ENGINEERING SERVICES** for the Water Filtration Plant.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA;

SECTION 1. That Reference #OFLP207 between the City of Fort Wayne, by and through its Department of Purchasing and **WESTINGHOUSE ENGINEERING SERVICES** for the Water Filtration Plant, respectfully for:

> the purchase of material and labor for reconditioning of and static retro-fitting of 13 DB type air circuit breakers Westinghouse NEG HO CGS0094 for the Water Filtration Plant (part of the 1990 CIP Item #24, electrical upgrade) for the Water Filtration Plant;

involving a total cost of Forty-Eight Thousand and no/100 Dollars ($48,000.00), all as more particularly set forth in said Reference #OFLP207 which is on file in the Office of the Department of Purchasing, and is by reference incorporated herein, made a part hereof, and is hereby in all things ratified, confirmed and approved.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Paul M. Burns

Councilmember

APPROVED AS TO FORM
AND LEGALITY

J. Timothy McCaulay

J. Timothy McCaulay, City Attorney

REF. NO.:	OFLP207
DEPT.:	FILTRATION PLANT
DATE:	6/5/90
ITEM/SERV.:	13 DB TYPE CIRCUIT BREAKERS

PURCHASING INFORMATION

ADVERTISED BID:	NO
DATES ADVERTISED:	
OPENING DATE:	
WRITTEN QUOTE:	NO
DUE DATE:	
VERBAL QUOTE:	
SINGLE SOURCE:	YES
NO. OF VENDORS NOTIFIED:	1
NO. OF VENDORS RECEIVING BID:	1
NO. OF VENDORS RETURNING BID:	1
NO. OF VENDORS DISQUALIFIED:	0
NO. OF VENDORS NOT RESPONDING:	0
DATE SENT TO DEPT FOR RECOMM.:	5/7/90
DATE RECOMMENDATION REC'D IN PURCH:	6/5/90
COUNCIL INFORMATION	DATES SENT EXTENSION DATES
DATE INFO SENT TO LAW DEPT.:	6/5/90
INTRODUCTION DATE:	6/12/90
DISCUSSION DATE:	6/19/90
PASSAGE DATE:	6/26/90
ORDINANCE NO.:	
AMOUNT APPROVED AND/OR SPENT LAST YEAR: (IF APPLICABLE)	

Westinghouse
Electric Corporation

16750 Chicago Avenue
Lansing Illinois 60438
(708) 895 7721

April 25, 1990

CITY OF FT. WAYNE
3 Rivers Filtration Plant
1 Main Street
Ft. Wayne, IN 46802

Attention: Mr. Paul Dolde

Subject: RECONDITIONING AND STATIC RETROFITTING OF
(13) DB TYPE AIR CIRCUIT BREAKERS
Westinghouse Neg. No. CGS0094

Dear Mr. Dolde:

Westinghouse Electric is pleased to offer this proposal to static retrofit and recondition your Westinghouse DB type breakers (3DB50-2DB25-8DB15).

Following are some of the features Ft. Wayne Filtration Plant will receive by having solid state overloads installed on these breakers by a Westinghouse Engineering Service trained breaker technician.

A. Five year parts and labor pro-rated warranty on the tripping system.

B. Multi-range current transformers for a total trip range selectivity, thus enabling each breaker to be easily utilized various load.

C. All parts are stock.

D. The breakers will be tested, inspected and adjusted to specifications by Westinghouse who has been doing this type of work for over 15 years.

E. The following trip curves are available:
1. Long delay
2. Short delay
3. Instantaneous
4. Ground

F. The following trip targets are available:
1. Fault
2. Overload
3. Ground

The reconditioning of your breakers will include the following:

1. Complete dissassembly of the breaker.
2. All parts will be cleaned. Breaker frame and face plate will be re-painted.
3. All metal parts will be polished.
4. Minor tracking will be repaired (major will be quoted).
5. All parts will be inspected for repair/replacement and quoted to customer for approval.
6. Upon approval, repairs will be made, breaker lubed, re-assembled and tested.

Westinghouse can supply spare units for most draw out breakers while work is being performed on your breakers, at the Westinghouse breaker repair laboratory in Lansing, IL.

Prices for the solid state conversions and reconditioning are shown below for the various type of breakers which have been noted as being at your location:

BREAKER MFGR.	TYPE	*PRICE	**SPARE PRICE
Westinghouse	DB50	$3,600 ea.	No Change
Westinghouse	DB25	$3,500 ea.	No Change
Westinghouse	DB15	$3,500 ea.	No Change

*Solid State Conversion and Reconditioning Price

**Spare breakers are subject to availability.

Transportation can be provided at $250.00 per trip on a Westinghouse truck, handling a load of 7 DB type breakers per load.

Again, we thank you for the opportunity to quote on this work. Should you have any questions please contact me at (708) 418-0190.

Very truly yours,

WESTINGHOUSE ENGINEERING SERVICE

Albert J. Webster
Engineering Sales Speciality

AJW:gpn

Westinghouse Electric Corporation
Engineering and Instrumentation
Services Division
875 Greentree Road, Bldg. No. 8
Pittsburgh, Pennsylvania 15220

February 15, 1989
Supersedes SP 49-000, pages 1 and 2
dated August 15, 1987
Mailed to: E, D, C/49-000

Field Engineering Service

Engineering Service

Price Reference – PL 49-020
PL 49-021A
PL 49-023
PL 49-026

Terms and Conditions of Sale
Westinghouse hereby gives notice of its objection to any different or additional terms and conditions except for any such terms and conditions as may be expressly accepted by it in writing.

Unless different or additional terms and conditions are stated or referred to in the proposal, in which event such different or additional terms and conditions shall be exclusive as to the particular subject covered, the terms and conditions stated below apply, and such terms and conditions supersede any prior or contemporaneous agreements or correspondence between the parties.

Quotations
This Quotation will expire 30 days from its date unless otherwise stated in the quotation or unless extended in writing by Westinghouse.

Prices
Prices are net to all purchasers.

Price Policy
Prices quoted are firm for ninety days from the date of order. If shipment of repaired equipment or completion of service extends beyond 90 days from the date of order, the prices will be adjusted to those in effect at the time of such shipment or completion; however, increases will not exceed 1% of the unpaid balance per month from the date of the order.

Taxes
The price does not include any federal, state, or local property, license, privilege, sales, use, excise, gross receipts, value added, or other like taxes which may now or hereafter be applicable to, measured by, or imposed upon, or with respect to the transaction, the property, its sale, its value, or its use, or any services performed in connection therewith. Such taxes are for the account of the purchaser and the purchaser agrees to pay or reimburse any such taxes which Westinghouse or its contractors or suppliers are required to pay.

◉Terms of Payment
Payment is due upon receipt of invoice.

◉ Changed or added since previous issue.

Unless otherwise agreed upon in writing by Westinghouse and Purchaser, Westinghouse reserves the right to invoice Purchaser on a monthly basis for work completed as work progresses.

Delayed Payments
If payments are not made in accordance with these terms, a service charge will, without prejudice to the right of Westinghouse to immediate payment, be added to the account of the purchaser in an amount equal to the lower of 1½% per month or fraction thereof or the highest legal rate on the unpaid balance.

Payments
Westinghouse shall have the right to require full or partial payment in advance at any time, if, in its opinion, the financial condition of the purchaser does not justify the terms of payment specified.

Should the purchaser be adjudged bankrupt or insolvent in any legal proceeding, Westinghouse shall have the right, at its election and throughout the period allowed in such proceeding for filing claims against the purchaser's estate, to cancel the order and to recover its proper cancellation charges from the purchaser's estate.

If the work is delayed by the purchaser, Westinghouse may require payment for all materials accumulated and work performed under the order.

Delivery – Risk of Loss
All transportation costs shall be for the account of the purchaser and shall be added to the invoice. The equipment sent to Westinghouse for repair shall be delivered by purchaser F.O.B. Westinghouse plant. Repaired equipment and other equipment or materials furnished by Westinghouse shall be delivered to the purchaser F.O.B. Westinghouse plant. Title to and risk of loss of or damage to any material or equipment furnished by Westinghouse under the contract shall pass to the purchaser F.O.B. Westinghouse plant. Risk of loss or damage to the purchaser's material or equipment shall be with the purchaser at all times.

Shipping Dates
Shipping and/or completion dates are approximate and are based on prompt receipt of all necessary information and approvals from the purchaser. Unless the purchaser stipulates on their purchase order that an earlier shipment is not permissible, Westinghouse reserves the right to ship prior to the contract shipping date.

Force Majeure
Westinghouse shall not be liable for failure to perform or for delay in performance due to fire, flood, strike or other labor difficulty, act of God, act of any governmental authority or of the purchaser, riot, embargo, fuel or energy shortage, car shortage, faulty castings or forgings, wrecks or delay in transportation, inability to obtain necessary labor, materials or manufacturing facilities from usual sources, or due to any cause beyond its reasonable control.

In the event of delay in performance due to any such cause, the date of delivery or time for completion will be extended by a period of time reasonably necessary to overcome the effect of such delay.

Warranty
Westinghouse warrants, to the extent to which any of the same may be applicable, that (a) any replacement or other parts furnished by it or any work done by it on the purchaser's equipment or both shall be free of defects in workmanship and materials, (b) any specialized tools, equipment and instruments for the use of which a charge is made to the purchaser shall be adequate for the work to be performed and (c) the engineering services performed by it will be competent and any recommendations of its representatives shall reflect their best professional knowledge or judgment.

Westinghouse shall, upon prompt written notice from the purchaser, correct any failure to conform to any of the applicable foregoing warranties which may appear within a period of one (1) year after completion of the work, or shipment of the part, requiring correction under this warranty. Such correction may, in the case of Item (a) above and at the election of Westinghouse be limited to the repair or replacement F.O.B. Westinghouse plant, of the defective part or parts furnished by it. In the case of any other breach of the foregoing warranty, Westinghouse shall furnish engineering services or specialized tools, equipment and instruments, to the same extent as on the original work. It is understood and agreed that, unless otherwise agreed to in writing by Westinghouse, Westinghouse assumes no responsibility with respect to the suitability of the purchaser's equipment or with respect to any latent defects in the same. In no event shall Westinghouse be responsible for providing working access to the defect, including the removal, disassembly, re-

placement or reinstallation of any equipment, materials or structures to the extent necessary to permit Westinghouse to perform its warranty obligations, or transportation costs to and from the Westinghouse factory or repair facility, or for damage to equipment components or parts resulting in whole or in part from improper maintenance or operation or from their deteriorated condition. The condition of any tests shall be mutually agreed upon and Westinghouse shall be notified of, and may be present at all tests that may be made.

The above warranties do not apply to products which have a life, under normal use, inherently shorter than the 1 year period indicated above. Westinghouse, on products not manufactured by Westinghouse, limits itself to extending the same warranty it receives from the supplier.

Westinghouse warrants that any engineering studies performed by it will conform to high professional standards. Any portion of the study which does not so conform shall be corrected by Westinghouse upon notification in writing by the purchaser within 6 months after completion of the study.

All warranty work shall be performed in a single shift straight time basis Monday through Friday. In the event that the product requires correction of warranty items on an overtime schedule, the premium portion of such overtime shall be for the purchaser's account.

The foregoing warranties are exclusive and in lieu of all other warranties whether statutory, express or implied (including all warranties of merchantability and fitness for particular purpose and all warranties arising from course of dealing or usage of trade), except of title and against patent infringement.

The remedies provided above are the purchaser's sole remedies for any failure of Westinghouse to comply with its obligations. Correction of any nonconformity in the manner and for the period of time provided above shall constitute complete fulfillment of all the liabilities of Westinghouse whether the claims of the purchaser are based in contract, in tort (including negligence) or otherwise with respect to or arising out of the work performed hereunder.

Liability

Westinghouse, its contractors and suppliers of any tier, shall not be liable in contract, in tort (including negligence) or otherwise for damage or loss of other property or equipment, loss of profits or revenue, loss of use of equipment or power system, cost of capital, cost of purchased or replacement power or temporary equipment (including additional expenses incurred in using existing facilities), claims of customers of the purchaser, or for any special, indirect, incidental, or consequential damages whatsoever.

The remedies of the purchaser set forth herein are exclusive and the liability of Westinghouse with respect to any contract, or anything done in connection therewith such as the performance or breach thereof, or from the manufacture, sale, delivery, resale, installation or technical direction of installation, maintenance or technical direction of maintenance, repair or use of any equipment covered by or furnished under the contract, whether in contract, in tort (including negligence) or otherwise, shall not exceed the price set forth herein for the work.

Patent Infringement

Subject to the following provisions, Westinghouse shall at its own expense, defend or at its option settle any claim, suit or proceeding brought against the purchaser, and/or its vendees, mediate and immediate, so far as based on an allegation that any goods, material, equipment, device or article (hereinafter referred to as product) or any part thereof furnished hereunder constitutes a direct or a contributory infringement of any claim of any patent of the United States. This obligation shall be effective only if purchaser shall have made all payments then due hereunder and if Westinghouse is notified promptly in writing and given authority, information and assistance for the defense of said claim, suit or proceeding. Westinghouse shall pay all damages and costs awarded in such suit or proceedings so defended. In case the product or any part thereof furnished hereunder becomes the subject of any claim, suit or proceeding for infringement of any United States patent, or in the event of an adjudication that such product or part infringes any United States patent, or if the use or sale of such product or part is enjoined, Westinghouse shall, at its option and its own expense, either:

(a) procure for the purchaser the right to continue using said product or part thereof; or

(b) replace it with a non-infringing product; or

(c) modify it so it becomes non-infringing; or

(d) as a last resort remove it and refund the purchase price and the transportation and installation costs thereof.

The foregoing indemnity does not apply to the following:

1. Patented processes performed by the product, or another product produced thereby.
2. Products supplied according to a design other than that of Westinghouse and which is required by the purchaser.
3. Combination of the product with another product not furnished hereunder unless Westinghouse is a contributory infringer.
4. Any settlements of a suit or proceeding made without Westinghouse's written consent.

The foregoing states the entire liability of Westinghouse with respect to patent infringement by said product or any part thereof.

If a suit or proceeding is brought against Westinghouse solely on account of activities enumerated in paragraphs 1, 2, or 3 above, the purchaser agrees to indemnify Westinghouse in the manner and to the extent Westinghouse indemnified purchaser in the first paragraph of this provision insofar as the terms thereof are appropriate.

Indemnification

Westinghouse shall, subject to provision entitled **Liability**, indemnify and save the purchaser harmless for, but only for, claims of third parties for physical damage to property and personal injury, including death, occurring during the performance of the work hereunder on the premises of the purchaser and resulting directly and solely from the negligence of the employes of Westinghouse while engaged in such work except where such damage or injury arises out of or results from a "nuclear incident" (as defined in the Atomic Energy Act of 1954, as amended).

Westinghouse shall, with respect to such work, comply with the provisions of the Applicable Workmen's (Workers') Compensation Act.

Termination

Any order or contract may be terminated by the purchaser only on written notice to Westinghouse and upon payment of reasonable and proper termination charges.

Minimum Billing

The minimum billing for any service performed on a single order will be $55.

Scrap Materials

All scrap materials become the property of Westinghouse.

Containers

An extra charge will be made for returnable containers and special shipping devices, but refund will be made if returned in good condition to the factory or other point designated by Westinghouse within 90 days from date of original shipment, charges prepaid.

Nuclear Application

In the event that the purchaser or third parties use services, product, or any part thereof, in connection with any activity or process involving nuclear fission or fusion or any use or handling of any source, special nuclear or by-product material as those materials are defined in the U. S. Atomic Energy Act of 1954 (as amended), the above items shall be sold pursuant to Selling Policy 60, copy of which will be provided upon request and which are in addition to the terms contained herein. Purchaser shall immediately notify Westinghouse of such nuclear application so that nuclear regulations and insurance provision contained in those terms and conditions can be complied with. Such notification shall be in writing by certified mail to Westinghouse.

Printed in USA

Read the first time in full and on motion by Burns, seconded by Talarico, and duly adopted, read the second time by title and referred to the Committee on City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock _____.M.,E.S.T.

DATED: 6-12-90

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Burns, seconded by Talarico, and duly adopted, placed on its passage. PASSED ~~LOST~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES		1		2
BRADBURY				✓
BURNS	✓			
EDMONDS	✓			
GiaQUINTA				✓
HENRY	✓			
LONG	✓			
REDD	✓			
SCHMIDT		✓		
TALARICO	✓			

DATED: 6-26-90.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ANNEXATION)~~ (APPROPRIATION) ~~(GENERAL)~~ ~~(SPECIAL)~~ ~~(ZONING MAP)~~ ORDINANCE ~~RESOLUTION~~ NO. S-150-90 on the 26th day of June, 19 90,

ATTEST: Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

SEAL

Charles S. Redd
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27th day of June, 19 90 at the hour of 1:30 o'clock P.M.,E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 27th day of June, 19 90, at the hour of 4:00 o'clock P.M.,E.S.T.

PAUL HELMKE, MAYOR

DIGEST SHEET

TITLE OF ORDINANCE: Special

DEPARTMENT REQUESTING ORDINANCE: Purchasing

SYNOPSIS OF ORDINANCE: An ordinance approving the award of Ref. No. OFLP207 for reconditioning of and static retro fitting of 13 DB type air circuit breakers Westinghouse NEG HO CGS0094 for the Filtration Plant. The cost reflects the most responsive vendor.

S-90-06-21

EFFECT OF PASSAGE: Material and labor for reconditioning and static retrofitting of 13 DB air circuit breakers manufactured by Westinghouse. This is part of the 1990 CIP (item #24, electrical upgrade) as approved by the Council in the rate increase. This is specialized work and should be performed by Manufacturer's field service.

EFFECT OF NON-PASSAGE: Unreliable electrical power service supply (interruption) that will put Filtration Plant and high service water pumping out of operation leaving the entire City of Fort Wayne without drinking water service.

MONIES INVOLVED: Westinghouse $48,000.00

PRICE AGREEMENT:

PURCHASE ORDER: Yes

SOURCE OF FUNDING: Filtration Pl 513-523-B101-4454

PRIOR APPROVAL: DATE:
(IF APPLICABLE)

BILL NO. S-90-06-21

REPORT OF THE COMMITTEE ON CITY UTILITIES

PAUL M. BURNS, CHAIRMAN
MARK E. GiaQUINTA, VICE CHAIRMAN
HENRY, LONG, TALARICO

WE, YOUR COMMITTEE ON CITY UTILITIES TO WHOM WAS

REFERRED AN (ORDINANCE) ~~(RESOLUTION)~~ approving the awarding of Reference #0FLP207 by the City of Fort Wayne, Indiana, by and through its Department of Purchasing and WESTINGHOUSE ENGINEERING SERVICES for the Water Filtration Plant

HAVE HAD SAID (ORDINANCE) ~~(RESOLUTION)~~ UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE) ~~(RESOLUTION)~~

DO PASS	DO NOT PASS	ABSTAIN	NO REC

DATED: 6-26-90.

Sandra E. Kennedy
City Clerk